


DEC 08 2010

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

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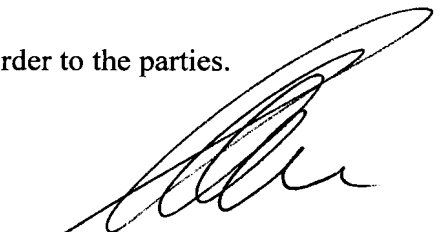
UNITED STATES OF AMERICA,)	Criminal Case No. 7:08cr00018-2
)	
)	<u>FINAL ORDER ADOPTING</u>
v.)	<u>REPORT AND RECOMMENDATION</u>
)	
DENNIS JAMES HURDLE.)	By: Samuel G. Wilson
)	United States District Judge

Dennis James Hurdle brings this action under 28 U.S.C. § 2255, alleging that his waiver of his right to appeal was not knowing and voluntary and that counsel provided ineffective assistance on several grounds, including in failing to file an appeal upon Hurdle's request. The United States filed a motion to dismiss, and by order entered March 26, 2010, the court referred the matter to United States Magistrate Judge Michael F. Urbanski for an evidentiary hearing to determine whether Hurdle requested that his attorney file an appeal and for a report with a recommended disposition of the case. The Magistrate Judge conducted an evidentiary hearing on October 8, 2010 and filed a Report and Recommendation, pursuant to 28 U.S.C. § 636(b)(1)(B), finding that Hurdle's claims either lacked merit or were waived by his plea agreement. Therefore, the Magistrate Judge recommended that Hurdle's § 2255 motion be dismissed. Neither party has filed objections. Having reviewed the Magistrate Judge's Report and Recommendation and pertinent portions of the record, the court agrees with the Magistrate Judge's recommendation.

Accordingly, it is hereby **ORDERED** and **ADJUDGED** that the Magistrate Judge's Report and Recommendation (Docket No. 154) is **ADOPTED** in its entirety, the government's motion to dismiss (Docket No. 134) is **GRANTED**, Hurdle's § 2255 motion (Docket No. 128) is **DISMISSED**, and this case is **STRICKEN** from the active docket of the court.

The Clerk of Court is directed to send copies of this order to the parties.

ENTER: This 8th day of December, 2010.



United States District Judge